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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/271,581	03/18/1999	ANIL V. RAO	M-7266US	4342
33438	7590	08/09/2004	EXAMINER	
HAMILTON & TERRILE, LLP			LANIER, BENJAMIN E	
P.O. BOX 203518			ART UNIT	
AUSTIN, TX 78720			PAPER NUMBER	

2132

DATE MAILED: 08/09/2004

22

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Technology Center 2100

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/271,581

Filing Date: March 18, 1999

Appellant(s): RAO ET AL.

Stephen A. Terrile

For Appellant

**EXAMINER'S ANSWER**

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**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

No amendment after final has been filed.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

Appellant's brief includes a statement that claims 1-9, 24, claims 18-19, 26, claims 20, 21, 27, claims 22, 28, and claim 23 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

**(8) *Claims Appealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) *Prior Art of Record***

5,034,980	Kubota	7-1991
6,363,497	Charabaszcz	3-2002

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5,748,877	Dollahite	5-1998
6,389,541	Patterson	5-2002
5,757,904	Cooper	5-1998
5,694,582	Pearce	12-1997
5,034,980	Saxena	7-2001

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 5, 10, 13, 23-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Kubota, U.S. Patent No. 5,034,980. Referring to claims 1, 5, 10, 13, Kubota discloses a system for providing copy protection wherein a microprocessor is encrypted with a unique code (configuration file) during its manufacture (manufactured by a computer system manufacturer, identifying the computer system manufacturer). A software package is encrypted to function uniquely with a particular microprocessor such that only the unique cryptographic code in the microprocessor (identification information) can decipher it (read configuration file, ensure that the software is installed only on a computer system manufactured by the computer system manufacturer)(Abstract, Col. 2, lines 1-45). Microprocessor also has means to store

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software information on floppy disks and hard disks (non-volatile storage)(Col. 1, lines 15-63).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Kubota, U.S. Patent No. 5,034,980, in view of Charabaszcz, U.S. Patent No. 6,363,497.

Referring to claims 2, 11, Kubota discloses a system for providing copy protection wherein a microprocessor is encrypted with a unique code (configuration file) during its manufacture (manufactured by a computer system manufacturer, identifying the computer system manufacturer). A software package is encrypted to function uniquely with a particular microprocessor such that only the unique cryptographic code in the microprocessor (identification information) can decipher it (read configuration file, ensure that the software is installed only on a computer system manufactured by the computer system manufacturer)(Abstract, Col. 2, lines 1-45). Microprocessor also has means to store software information on floppy disks and hard disks (non-volatile storage)(Col. 1, lines 15-63). Kubota does not disclose a BIOS memory file included in the configuration file. Charabaszcz discloses a primary server that calls a backup server to read the BIOS or configuration files when the primary server goes down (Col. 12, lines 57-61). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a BIOS memory file with the configuration file of Kubota

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in order to have both the BIOS file and configuration file information together for system reset purposes as taught in Charabaszcz (Col. 12, lines 61-65).

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kubota, U.S. Patent No. 5,034,980, in view of Charabaszcz, U.S. Patent No. 6,363,497 as applied to claim 2 above, and further in view of Dollahite, U.S. Patent No. 5,748,877. Referring to claim 3, Kubota discloses a system for providing copy protection wherein a microprocessor is encrypted with a unique code (configuration file) during its manufacture (manufactured by a computer system manufacturer, identifying the computer system manufacturer). A software package is encrypted to function uniquely with a particular microprocessor such that only the unique cryptographic code in the microprocessor (identification information) can decipher it (read configuration file, ensure that the software is installed only on a computer system manufactured by the computer system manufacturer)(Abstract, Col. 2, lines 1-45). Microprocessor also has means to store software information on floppy disks and hard disks (non-volatile storage)(Col. 1, lines 15-63). Charabaszcz does not disclose a BIOS memory file stored on a nonvolatile memory. Dollahite discloses a BIOS memory file stored on an electrically erasable programmable read-only memory (EEPROM) (Col. 3, lines 3-9), which by definition is nonvolatile. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a BIOS memory file stored on an EEPROM in the technique for mass distribution of software of Kubota in order to save the state of the PC to a hard disk for resetting purposes as taught in Dollahite (Col. 1, line 63- Co. 2, line 5).

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6. Claims 4, 8, 12, 16, 18, 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubota, U.S. Patent No. 5,034,980, in view of Patterson, U.S. Patent No. 6,389,541. Referring to claims 4, 8, 12, 16, 20, and 22, Kubota discloses a system for providing copy protection wherein a microprocessor is encrypted with a unique code (configuration file) during its manufacture (manufactured by a computer system manufacturer, identifying the computer system manufacturer). A software package is encrypted to function uniquely with a particular microprocessor such that only the unique cryptographic code in the microprocessor (identification information) can decipher it (read configuration file, ensure that the software is installed only on a computer system manufactured by the computer system manufacturer)(Abstract, Col. 2, lines 1-45). Microprocessor also has means to store software information on floppy disks and hard disks (non-volatile storage)(Col. 1, lines 15-63). Kubota does not disclose storing the key in a registry file that is stored on a nonvolatile storage device. Patterson discloses a system to regulate access to digital content where on the Windows Operating System a registry file is used to store the unique coded key (Col. 3, lines 54-56), and the use of CD-ROM (Col. 3, lines 39-41). It would have been obvious to one of ordinary skill in the art at the time the invention was made to store the key taken from the configuration file in Kubota in a registry file in order to lock the installed object to that particular machine as taught in Patterson (Col. 3, lines 56-63).

7. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubota, U.S. Patent No. 5,034,980, in view of Cooper, U.S. Patent No. 5,757,904. Referring to claims 6 and 14, Kubota discloses a system for providing copy protection wherein a microprocessor is encrypted with a unique code (configuration file) during its

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manufacture (manufactured by a computer system manufacturer, identifying the computer system manufacturer). A software package is encrypted to function uniquely with a particular microprocessor such that only the unique cryptographic code in the microprocessor (identification information) can decipher it (read configuration file, ensure that the software is installed only on a computer system manufactured by the computer system manufacturer)(Abstract, Col. 2, lines 1-45). Microprocessor also has means to store software information on floppy disks and hard disks (non-volatile storage)(Col. 1, lines 15-63). Kubota does not disclose checking the authenticity of the key taken from the configuration file. Cooper discloses a method for providing distributed software where the decryption key provided by the software vendor is authenticated (Col. 15, lines 42-45). It would have been obvious to one of ordinary skill in the art at the time the invention was made to authenticate the key used in the technique for mass distribution of software of Kubota in order to inform the user-controlled system that the key taken from the configuration file is authentic as taught in Cooper (Col. 15, lines 54-60).

8. Claims 7 and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Kubota, U.S. Patent No. 5,034,980, in view of Pearce, U.S. Patent No. 5,694,582.

Referring to claims 7 and 15, Kubota discloses a system for providing copy protection wherein a microprocessor is encrypted with a unique code (configuration file) during its manufacture (manufactured by a computer system manufacturer, identifying the computer system manufacturer). A software package is encrypted to function uniquely with a particular microprocessor such that only the unique cryptographic code in the microprocessor (identification information) can decipher it (read configuration file,



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ensure that the software is installed only on a computer system manufactured by the computer system manufacturer)(Abstract, Col. 2, lines 1-45). Microprocessor also has means to store software information on floppy disks and hard disks (non-volatile storage)(Col. 1, lines 15-63). Kubota does not disclose the reading and determining program being stored in a dynamic linked library. Pearce discloses an operating system that loads an executable file for execution and replaces references with addresses that are valid for usage in function calls. A dynamic link library is a module that satisfies these references by dynamic linking (Col. 5, lines 10-16). It would have been obvious to one of ordinary skill in the art at the time the invention was made to store the program that reads the configuration file and determines the key to be stored in a dynamic linked library in order to provide runtime support code that is linked to an executable file as taught in Pearce (Col. 5, lines 3-5).

9. Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubota, U.S. Patent No. 5,034,980, in view of Saxena, U.S. Patent No. 6,259,449.

Referring to claims 9 and 17, Kubota discloses a system for providing copy protection wherein a microprocessor is encrypted with a unique code (configuration file) during its manufacture (manufactured by a computer system manufacturer, identifying the computer system manufacturer). A software package is encrypted to function uniquely with a particular microprocessor such that only the unique cryptographic code in the microprocessor (identification information) can decipher it (read configuration file, ensure that the software is installed only on a computer system manufactured by the computer system manufacturer)(Abstract, Col. 2, lines 1-45). Microprocessor also has means to store software information on floppy disks and hard disks (non-volatile

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storage)(Col. 1, lines 15-63). Kubota does not disclose storing data on a Web Page accessible to a global computer network. Saxena discloses a web server that stores data in the form of web pages and transmits these pages as Hypertext Markup Language (HTML) files over the Internet network to a host computer (Col. 3, lines 37-41). It would have been obvious to one of ordinary skill in the art at the time the invention was made to store data from the nonvolatile storage devices in Kubota as web pages so that the data is accessible over the Internet through a web browser as taught in Saxena (Col. 3, lines 41-46).

10. Claims 19 and 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kubota, U.S. Patent No. 5,034,980, in view of Patterson, U.S. Patent No. 6,389,541 as applied to claims 18 and 20 above, and further in view of Charabaszcz, U.S. Patent No. 6,363,497. Referring to claims 19 and 21, Kubota discloses a system for providing copy protection wherein a microprocessor is encrypted with a unique code (configuration file) during its manufacture (manufactured by a computer system manufacturer, identifying the computer system manufacturer). A software package is encrypted to function uniquely with a particular microprocessor such that only the unique cryptographic code in the microprocessor (identification information) can decipher it (read configuration file, ensure that the software is installed only on a computer system manufactured by the computer system manufacturer)(Abstract, Col. 2, lines 1-45). Microprocessor also has means to store software information on floppy disks and hard disks (non-volatile storage)(Col. 1, lines 15-63). Patterson discloses a system to regulate access to digital content where on the Windows Operating System a registry file is used to store the unique coded key (Col. 3, lines 54-56). Patterson does not disclose a BIOS memory file

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included in the configuration file. Charabaszcz discloses a primary server that calls a backup server to read the BIOS or configuration files when the primary server goes down (Col. 12, lines 57-61). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a BIOS memory file with the configuration file of Kubota in order to have both the BIOS file and configuration file information together for system reset purposes as taught in Charabaszcz (Col. 12, lines 61-65).

**(11) Response to Argument**

Applicant's argument that the Kubota reference discloses and relates solely to microprocessors and that providing manufacturer specific identification information identifying a computer system manufacturer is patentably distinct from uniquely identifying a particular microprocessor is not persuasive because Applicant is not claiming providing manufacturer specific identification information identifying the manufacturer of a **personal** computer system that is user interface able, which is the apparent intention based on Applicant's arguments. The microprocessor of Kubota meets the claim limitation of a computer system using a broad by reasonable interpretation. This microprocessor is encoded with a unique code at the time of its manufacture (Abstract), which would meet the limitation of providing manufacturer specific identification information identifying a computer system manufacturer.

Applicant's argument that the Kubota reference does not disclose installing software onto a computer system manufactured by a computer system manufacturer is not persuasive because Kubota discloses that before the user obtains the software package they must identify to the supplier of the software the identification number of the user's specific microprocessor (Col. 3, lines 37-40). This identification number meets the

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limitation of manufacturer specific information. Once the software provider is given the identification information, the software supplier will then encrypt the software according to the code associated with that identification information. The software is then provided to the user. When the copy protected software is accessed by the appropriate microprocessor having the appropriate identification number, the key value associate with the microprocessor having the identification number is then used to decipher the software if the key value is correct. If the key value is incorrect, indicating that the software is not intended for that microprocessor, then the correct deciphering cannot occur (Col. 3, lines 40-50), which meets the limitation of installing software onto a computer system manufactured by a computer system manufacturer, and using a key to ensure that the software is installed only on a computer system manufactured by the computer system manufacturer.

The above mentioned process involves the use of a key value or unique code that is integrated within microprocessor meets the limitation of the configuration file because Microsoft's Computer Dictionary defines a configuration file as a file that contains machine-read-able operating specifications for a piece of hardware or software or that contains information on another file or a specific user, such as the user's logon ID. The key value or unique code of Kubota is clearly machine-read-able code that contains cryptographic specifications for a piece of hardware and a piece of software, and therefore clearly meets the afore mentioned limitation.

Applicant's argument that the Kubota and Patterson references do not disclose determining a key from one or more bytes from the configuration file including the manufacturer specific information identifying the computer system manufacturer is not

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persuasive because the key value or unique code of Kubota is used for the decryption (Abstract) and is therefore determined from one or more bytes of the configuration file. Kubota does not disclose that the key value or the unique code is stored in a registry file, but the Patterson reference discloses a system to regulate access to digital content where a registry file is used to store the unique coded key (Col. 3, lines 54-56). It would have been obvious to one of ordinary skill in the art at the time the invention was made to store the key taken from the configuration file in Kubota in a registry file in order to lock the installed object to that particular machine as taught in Patterson (Col. 3, lines 56-63). For the above reasons, it is believed that the rejections should be sustained.

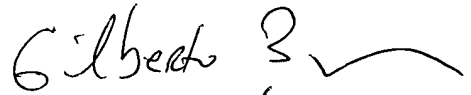
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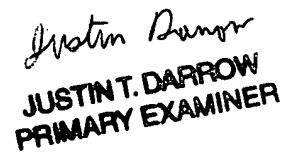
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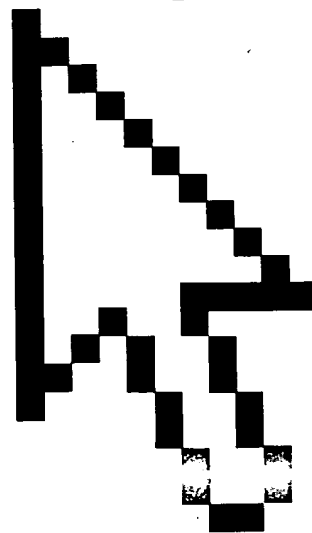
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# Computer Dictionary

Fifth Edition



20-06-02 P04:29 IN

**PUBLISHED BY**

Microsoft Press  
A Division of Microsoft Corporation  
One Microsoft Way  
Redmond, Washington 98052-6399

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Library of Congress Cataloging-in-Publication Data  
Microsoft Computer Dictionary.--5th ed.

p. ; cm.

ISBN 0-7356-1495-4

1. Computers--Dictionaries. 2. Microcomputers--Dictionaries.

AQ76.5. M52267 2002  
004'.03--dc21

200219714

Printed and bound in the United States of America.

1 2 3 4 5 6 7 8 9 QWT 7 6 5 4 3 2

Distributed in Canada by Penguin Books Canada Limited.

A CIP catalogue record for this book is available from the British Library.

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Body Part No. X08-41929

machine language situations. Condition codes are hardware-specific but usually include carry, overflow, zero result, and negative result codes. *See also* conditional branch.

**conditioning** *n.* The use of special equipment to improve the ability of a communications line to transmit data. Conditioning controls or compensates for signal attenuation, noise, and distortion. It can be used only on leased lines, where the path from sending to receiving computer is known in advance.

**conductor** *n.* A substance that conducts electricity well. Metals are good conductors, with silver and gold being among the best. The most commonly used conductor is copper. *Compare* insulator, semiconductor.

**Conference on Data Systems Languages** *n.* *See* CODASYL.

**CONFIG.SYS** *n.* A special text file that controls certain aspects of operating-system behavior in MS-DOS and OS/2. Commands in the CONFIG.SYS file enable or disable system features, set limits on resources (for example, the maximum number of open files), and extend the operating system by loading device drivers that control hardware specific to an individual computer system.

**configuration** *n.* 1. In reference to a single microcomputer, the sum of a system's internal and external components, including memory, disk drives, keyboard, video, and generally less critical add-on hardware, such as a mouse, modem, or printer. Software (the operating system and various device drivers), the user's choices established through configuration files such as the AUTOEXEC.BAT and CONFIG.SYS files on IBM PCs and compatibles, and sometimes hardware (switches and jumpers) are needed to "configure the configuration" to work correctly. Although system configuration can be changed, as by adding more memory or disk capacity, the basic structure of the system—its architecture—remains the same. *See also* AUTOEXEC.BAT, CONFIG.SYS. 2. In relation to networks, the entire interconnected set of hardware, or the way in which a network is laid out—the manner in which elements are connected.

**configuration file** *n.* A file that contains machine-readable operating specifications for a piece of hardware or software or that contains information on another file or on a specific user, such as the user's login ID.

**congestion** *n.* The condition of a network when the current load approaches or exceeds the available resources and bandwidth designed to handle that load at a particular

location in the network. Packet loss and delays are associated with congestion.

**connect charge** *n.* The amount of money a user must pay for connecting to a commercial communications system or service. Some services calculate the connect charge as a flat rate per billing period. Others charge a varying rate based on the type of service or the amount of information being accessed. Still others base their charges on the number of time units used, the time or distance involved per connection, the bandwidth of each connected session, or some combination of the preceding criteria. *See also* connect time.

**connection** *n.* A physical link via wire, radio, fiberoptic cable, or other medium between two or more communications devices.

**connection-based session** *n.* A communications session that requires a connection to be established between hosts prior to an exchange of data.

**connectionism** *n.* A model in artificial intelligence that advocates using highly parallel, specialized processes that compute simultaneously and are massively connected. Thus, the connectionist approach would not use a single high-speed processor to compute an algorithm, but would break out many simple specialized processing elements that are highly connected. Neural networks are classic examples of connectionism in that each "neuron" in the network may be assigned to a single processor. *See also* algorithm, artificial intelligence, neural network.

**connectionless** *adj.* In communications, of, pertaining to, or characteristic of a method of data transmission that does not require a direct connection between two nodes on one or more networks. Connectionless communication is achieved by passing, or routing, data packets, each of which contains a source and destination address, through the nodes until the destination is reached. *See also* node (definition 2), packet (definition 2). *Compare* connection-oriented.

**connectionless session** *n.* A communications session that does not require a connection to be established between hosts prior to an exchange of data.

**connection-oriented** *adj.* In communications, of, pertaining to, or characteristic of a method of data transmission that requires a direct connection between two nodes on one or more networks. *Compare* connectionless.

**connection pooling** *n.* A resource optimization feature of ODBC (Open Database Connectivity) 3 that results in

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